

1 **ABUSE, NEGLECT, AND DEPENDENCY PROCEEDINGS**

2 **AMENDMENTS**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karianne Lisonbee**

6 Senate Sponsor: Wayne A. Harper

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Judiciary Interim Committee recommended this bill.

11 Legislative Vote: 11 voting for 0 voting against 5 absent

12 **General Description:**

13 This bill addresses proceedings in regards to the abuse, neglect, or dependency of a
14 child.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ limits the circumstances for when a petition for termination of parental rights may
18 be filed under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency
19 Proceedings;

20 ▶ requires the court to take into account certain statutory provisions and kinship
21 preferences in abuse, neglect, and dependency proceedings; and

22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 78A-6-302, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388

30 78A-6-304, as renumbered and amended by Laws of Utah 2008, Chapter 3

31 78A-6-306, as last amended by Laws of Utah 2019, Chapters 136, 326, and 335

32 78A-6-314, as last amended by Laws of Utah 2019, Chapter 71

33 78A-6-504, as renumbered and amended by Laws of Utah 2008, Chapter 3



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section 78A-6-302 is amended to read:

37 78A-6-302. **Court-ordered protective custody of a child following petition filing --**

38 **Grounds.**

39 (1) When a petition is filed under Section 78A-6-304, the court shall strongly consider
40 and apply, in addressing the petition, the least restrictive means and alternatives available to
41 accomplish a compelling state interest and to prevent irretrievable destruction of family life as
42 described in Subsections 62A-4a-201(1) and (7)(a) and Section 78A-6-503.

43 [~~1~~] (2) After a petition has been filed under Section 78A-6-304, if the child who is
44 the subject of the petition is not in the protective custody of the division, a court may order that
45 the child be removed from the child's home or otherwise taken into protective custody if the
46 court finds, by a preponderance of the evidence, that any one or more of the following
47 circumstances exist:

48 (a) (i) there is an imminent danger to the physical health or safety of the child; and

49 (ii) the child's physical health or safety may not be protected without removing the
50 child from the custody of the child's parent or guardian;

51 (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct
52 that causes the child to suffer harm; and

53 (ii) there are no less restrictive means available by which the child's emotional health
54 may be protected without removing the child from the custody of the child's parent or guardian;

55 (c) the child or another child residing in the same household has been, or is considered
56 to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a
57 parent or guardian, a member of the parent's or guardian's household, or other person known to
58 the parent or guardian;

- 59 (d) the parent or guardian is unwilling to have physical custody of the child;
- 60 (e) the child is abandoned or left without any provision for the child's support;
- 61 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
62 or cannot arrange for safe and appropriate care for the child;
- 63 (g) (i) a relative or other adult custodian with whom the child is left by the parent or
64 guardian is unwilling or unable to provide care or support for the child;
- 65 (ii) the whereabouts of the parent or guardian are unknown; and
- 66 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 67 (h) subject to Subsections 78A-6-105(39) and 78A-6-117(2) and Section 78A-6-301.5,
68 the child is in immediate need of medical care;
- 69 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an
70 environment that poses a serious risk to the child's health or safety for which immediate
71 remedial or preventive action is necessary; or
- 72 (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose
73 a threat to the child's health or safety;
- 74 (j) the child or another child residing in the same household has been neglected;
- 75 (k) the child's natural parent:
- 76 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
77 child;
- 78 (ii) is identified by a law enforcement agency as the primary suspect in an investigation
79 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 80 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or
81 recklessly causing the death of another parent of the child;
- 82 (l) an infant has been abandoned, as defined in Section 78A-6-316;
- 83 (m) (i) the parent or guardian, or an adult residing in the same household as the parent
84 or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab
85 Act; and
- 86 (ii) any clandestine laboratory operation was located in the residence or on the property
87 where the child resided; or
- 88 (n) the child's welfare is otherwise endangered.
- 89 [~~(2)~~] (3) (a) For purposes of Subsection [(1)] (2)(a), if a child has previously been

90 adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or
91 dependency occurs involving the same substantiated abuser or under similar circumstance as
92 the previous abuse, that fact constitutes prima facie evidence that the child cannot safely
93 remain in the custody of the child's parent.

94 (b) For purposes of Subsection ~~[(1)]~~ (2)(c):

95 (i) another child residing in the same household may not be removed from the home
96 unless that child is considered to be at substantial risk of being physically abused, sexually
97 abused, or sexually exploited as described in Subsection ~~[(1)]~~ (2)(c) or Subsection ~~[(2)]~~
98 (3)(b)(ii); and

99 (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse,
100 or sexual exploitation by a person known to the parent has occurred, and there is evidence that
101 the parent or guardian failed to protect the child, after having received the notice, by allowing
102 the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie
103 evidence that the child is at substantial risk of being physically abused, sexually abused, or
104 sexually exploited.

105 ~~[(3)]~~ (4) (a) For purposes of Subsection ~~[(1)]~~ (2), if the division files a petition under
106 Section 78A-6-304, the court shall consider the division's safety and risk assessments described
107 in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of
108 the child's parent or guardian or should otherwise be taken into protective custody.

109 (b) The division shall make a diligent effort to provide the safety and risk assessments
110 described in Section 62A-4a-203.1 to the court, guardian ad litem, and counsel for the parent or
111 guardian, as soon as practicable before the shelter hearing described in Section 78A-6-306.

112 ~~[(4)]~~ (5) In the absence of one of the factors described in Subsection ~~[(1)]~~ (2), a court
113 may not remove a child from the parent's or guardian's custody on the basis of:

114 (a) educational neglect, truancy, or failure to comply with a court order to attend
115 school;

116 (b) mental illness or poverty of the parent or guardian; or

117 (c) disability of the parent or guardian, as defined in Section 57-21-2.

118 ~~[(5)]~~ (6) A child removed from the custody of the child's parent or guardian under this
119 section may not be placed or kept in a secure detention facility pending further court
120 proceedings unless the child is detainable based on guidelines promulgated by the Division of

121 Juvenile Justice Services.

122 ~~[(6)]~~ (7) This section does not preclude removal of a child from the child's home
123 without a warrant or court order under Section [62A-4a-202.1](#).

124 ~~[(7)]~~ (8) (a) Except as provided in Subsection ~~[(7)]~~ (8)(b), a court or the Division of
125 Child and Family Services may not remove a child from the custody of the child's parent or
126 guardian on the sole or primary basis that the parent or guardian refuses to consent to:

- 127 (i) the administration of a psychotropic medication to a child;
128 (ii) a psychiatric, psychological, or behavioral treatment for a child; or
129 (iii) a psychiatric or behavioral health evaluation of a child.

130 (b) Notwithstanding Subsection ~~[(7)]~~ (8)(a), a court or the Division of Child and
131 Family Services may remove a child under conditions that would otherwise be prohibited under
132 Subsection ~~[(7)]~~ (8)(a) if failure to take an action described under Subsection ~~[(7)]~~ (8)(a) would
133 present a serious, imminent risk to the child's physical safety or the physical safety of others.

134 Section 2. Section **78A-6-304** is amended to read:

135 **78A-6-304. Petition filed.**

136 (1) For purposes of this section, "petition" means a petition to commence proceedings
137 in a juvenile court alleging that a child is:

- 138 (a) abused;
139 (b) neglected; or
140 (c) dependent.

141 (2) (a) Subject to Subsection (2)(b), any interested person may file a petition.

142 (b) A person described in Subsection (2)(a) shall make a referral with the division
143 before the person files a petition.

144 (3) If the child who is the subject of a petition is removed from the child's home by the
145 division, the petition shall be filed on or before the date of the initial shelter hearing described
146 in Section [78A-6-306](#).

147 (4) The petition shall be verified, and contain all of the following:

- 148 (a) the name, age, and address, if any, of the child upon whose behalf the petition is
149 brought;
150 (b) the names and addresses, if known to the petitioner, of both parents and any
151 guardian of the child;

152 (c) a concise statement of facts, separately stated, to support the conclusion that the
153 child upon whose behalf the petition is being brought is abused, neglected, or dependent; and

154 (d) a statement regarding whether the child is in protective custody, and if so, the date
155 and precise time the child was taken into protective custody.

156 (5) If a petition has been filed under this section, a petition for termination of parental
157 rights may not be filed, unless the court has:

158 (a) adjudicated or dismissed the petition filed under this section; or

159 (b) terminated reunification services.

160 Section 3. Section **78A-6-306** is amended to read:

161 **78A-6-306. Shelter hearing.**

162 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
163 after any one or all of the following occur:

164 (a) removal of the child from the child's home by the division;

165 (b) placement of the child in the protective custody of the division;

166 (c) emergency placement under Subsection [62A-4a-202.1\(4\)](#);

167 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
168 at the request of the division; or

169 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under
170 Subsection [78A-6-106\(4\)](#).

171 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the
172 division shall issue a notice that contains all of the following:

173 (a) the name and address of the person to whom the notice is directed;

174 (b) the date, time, and place of the shelter hearing;

175 (c) the name of the child on whose behalf a petition is being brought;

176 (d) a concise statement regarding:

177 (i) the reasons for removal or other action of the division under Subsection (1); and

178 (ii) the allegations and code sections under which the proceeding has been instituted;

179 (e) a statement that the parent or guardian to whom notice is given, and the child, are
180 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
181 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be
182 provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

183 (f) a statement that the parent or guardian is liable for the cost of support of the child in
184 the protective custody, temporary custody, and custody of the division, and the cost for legal
185 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
186 ability of the parent or guardian.

187 (3) The notice described in Subsection (2) shall be personally served as soon as
188 possible, but no later than one business day after removal of the child from the child's home, or
189 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection
190 [78A-6-106](#)(4), on:

191 (a) the appropriate guardian ad litem; and

192 (b) both parents and any guardian of the child, unless the parents or guardians cannot
193 be located.

194 (4) The following persons shall be present at the shelter hearing:

195 (a) the child, unless it would be detrimental for the child;

196 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
197 fail to appear in response to the notice;

198 (c) counsel for the parents, if one is requested;

199 (d) the child's guardian ad litem;

200 (e) the caseworker from the division who is assigned to the case; and

201 (f) the attorney from the attorney general's office who is representing the division.

202 (5) (a) At the shelter hearing, the court shall:

203 (i) provide an opportunity to provide relevant testimony to:

204 (A) the child's parent or guardian, if present; and

205 (B) any other person having relevant knowledge; ~~and~~

206 (ii) subject to Section [78A-6-305](#), provide an opportunity for the child to testify~~[-]; and~~

207 (iii) in accordance with Subsections [78A-6-307](#)(18)(c) through (e), grant preferential
208 consideration to a relative or friend for the temporary placement of the child.

209 (b) The court:

210 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
211 Procedure;

212 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
213 the requesting party, or their counsel; and

214 (iii) may in its discretion limit testimony and evidence to only that which goes to the
215 issues of removal and the child's need for continued protection.

216 (6) If the child is in the protective custody of the division, the division shall report to
217 the court:

218 (a) the reason why the child was removed from the parent's or guardian's custody;

219 (b) any services provided to the child and the child's family in an effort to prevent
220 removal;

221 (c) the need, if any, for continued shelter;

222 (d) the available services that could facilitate the return of the child to the custody of
223 the child's parent or guardian; and

224 (e) subject to Subsections [78A-6-307\(18\)\(c\)](#) through (e), whether any relatives of the
225 child or friends of the child's parents may be able and willing to accept temporary placement of
226 the child.

227 (7) The court shall consider all relevant evidence provided by persons or entities
228 authorized to present relevant evidence pursuant to this section.

229 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
230 cause shown, the court may grant no more than one continuance, not to exceed five judicial
231 days.

232 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
233 a continuance under Subsection (8)(a).

234 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
235 described in Subsection (2) within the time described in Subsection (3), the court may grant the
236 request of a parent or guardian for a continuance, not to exceed five judicial days.

237 (9) (a) If the child is in the protective custody of the division, the court shall order that
238 the child be returned to the custody of the parent or guardian unless it finds, by a
239 preponderance of the evidence, consistent with the protections and requirements provided in
240 Subsection [62A-4a-201\(1\)](#), that any one of the following exists:

241 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
242 safety of the child and the child's physical health or safety may not be protected without
243 removing the child from the custody of the child's parent;

244 (ii) (A) the child is suffering emotional damage that results in a serious impairment in

245 the child's growth, development, behavior, or psychological functioning;

246 (B) the parent or guardian is unwilling or unable to make reasonable changes that

247 would sufficiently prevent future damage; and

248 (C) there are no reasonable means available by which the child's emotional health may

249 be protected without removing the child from the custody of the child's parent or guardian;

250 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is

251 not removed from the custody of the child's parent or guardian;

252 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same

253 household has been, or is considered to be at substantial risk of being, physically abused,

254 sexually abused, or sexually exploited by a:

255 (A) parent or guardian;

256 (B) member of the parent's household or the guardian's household; or

257 (C) person known to the parent or guardian;

258 (v) the parent or guardian is unwilling to have physical custody of the child;

259 (vi) the child is without any provision for the child's support;

260 (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe

261 and appropriate care for the child;

262 (viii) (A) a relative or other adult custodian with whom the child is left by the parent or

263 guardian is unwilling or unable to provide care or support for the child;

264 (B) the whereabouts of the parent or guardian are unknown; and

265 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

266 (ix) subject to Subsections [78A-6-105\(39\)\(b\)](#) and [78A-6-117\(2\)](#) and Section

267 [78A-6-301.5](#), the child is in immediate need of medical care;

268 (x) (A) the physical environment or the fact that the child is left unattended beyond a

269 reasonable period of time poses a threat to the child's health or safety; and

270 (B) the parent or guardian is unwilling or unable to make reasonable changes that

271 would remove the threat;

272 (xi) (A) the child or a minor residing in the same household has been neglected; and

273 (B) the parent or guardian is unwilling or unable to make reasonable changes that

274 would prevent the neglect;

275 (xii) the parent, guardian, or an adult residing in the same household as the parent or

276 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act,
277 and any clandestine laboratory operation was located in the residence or on the property where
278 the child resided;

279 (xiii) (A) the child's welfare is substantially endangered; and

280 (B) the parent or guardian is unwilling or unable to make reasonable changes that
281 would remove the danger; or

282 (xiv) the child's natural parent:

283 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
284 child;

285 (B) is identified by a law enforcement agency as the primary suspect in an investigation
286 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

287 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
288 recklessly causing the death of another parent of the child.

289 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
290 established if:

291 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
292 involving the parent; and

293 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

294 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly
295 allowed the child to be in the physical care of a person after the parent received actual notice
296 that the person physically abused, sexually abused, or sexually exploited the child, that fact
297 constitutes prima facie evidence that there is a substantial risk that the child will be physically
298 abused, sexually abused, or sexually exploited.

299 (10) (a) (i) The court shall also make a determination on the record as to whether
300 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
301 child's home and whether there are available services that would prevent the need for continued
302 removal.

303 (ii) If the court finds that the child can be safely returned to the custody of the child's
304 parent or guardian through the provision of those services, the court shall place the child with
305 the child's parent or guardian and order that those services be provided by the division.

306 (b) In making the determination described in Subsection (10)(a), and in ordering and

307 providing services, the child's health, safety, and welfare shall be the paramount concern, in
308 accordance with federal law.

309 (11) Where the division's first contact with the family occurred during an emergency
310 situation in which the child could not safely remain at home, the court shall make a finding that
311 any lack of preplacement preventive efforts was appropriate.

312 (12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
313 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
314 "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home,
315 return a child to the child's home, provide reunification services, or attempt to rehabilitate the
316 offending parent or parents.

317 (13) The court may not order continued removal of a child solely on the basis of
318 educational neglect as defined in Section 78A-6-105, truancy, or failure to comply with a court
319 order to attend school.

320 (14) (a) Whenever a court orders continued removal of a child under this section, the
321 court shall state the facts on which that decision is based.

322 (b) If no continued removal is ordered and the child is returned home, the court shall
323 state the facts on which that decision is based.

324 (15) If the court finds that continued removal and temporary custody are necessary for
325 the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal
326 regardless of:

327 (a) any error in the initial removal of the child;

328 (b) the failure of a party to comply with notice provisions; or

329 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
330 and Family Services.

331 Section 4. Section 78A-6-314 is amended to read:

332 **78A-6-314. Permanency hearing -- Final plan -- Petition for termination of**
333 **parental rights filed -- Hearing on termination of parental rights.**

334 (1) (a) When reunification services have been ordered in accordance with Section
335 78A-6-312, with regard to a minor who is in the custody of the Division of Child and Family
336 Services, a permanency hearing shall be held by the court no later than 12 months after the day
337 on which the minor was initially removed from the minor's home.

338 (b) If reunification services were not ordered at the dispositional hearing, a permanency
339 hearing shall be held within 30 days after the day on which the dispositional hearing ends.

340 (2) (a) If reunification services were ordered by the court in accordance with Section
341 78A-6-312, the court shall, at the permanency hearing, determine, consistent with Subsection
342 (3), whether the minor may safely be returned to the custody of the minor's parent.

343 (b) If the court finds, by a preponderance of the evidence, that return of the minor to
344 the minor's parent would create a substantial risk of detriment to the minor's physical or
345 emotional well-being, the minor may not be returned to the custody of the minor's parent.

346 (c) Prima facie evidence that return of the minor to a parent or guardian would create a
347 substantial risk of detriment to the minor is established if:

348 (i) the parent or guardian fails to:

349 (A) participate in a court approved child and family plan;

350 (B) comply with a court approved child and family plan in whole or in part; or

351 (C) meet the goals of a court approved child and family plan; or

352 (ii) the minor's natural parent:

353 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
354 minor;

355 (B) is identified by a law enforcement agency as the primary suspect in an investigation
356 for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

357 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
358 recklessly causing the death of another parent of the minor.

359 (3) In making a determination under Subsection (2)(a), the court shall review and
360 consider:

361 (a) the report prepared by the Division of Child and Family Services;

362 (b) any admissible evidence offered by the minor's guardian ad litem;

363 (c) any report submitted by the division under Subsection 78A-6-315(3)(a)(i);

364 (d) any evidence regarding the efforts or progress demonstrated by the parent; and

365 (e) the extent to which the parent cooperated and used the services provided.

366 (4) With regard to a case where reunification services were ordered by the court, if a
367 minor is not returned to the minor's parent or guardian at the permanency hearing, the court
368 shall, unless the time for the provision of reunification services is extended under Subsection

369 (7):

370 (a) order termination of reunification services to the parent;

371 (b) make a final determination regarding whether termination of parental rights,
372 adoption, or permanent custody and guardianship is the most appropriate final plan for the
373 minor, taking into account the minor's primary permanency plan established by the court
374 pursuant to Section 78A-6-312; and

375 (c) establish a concurrent permanency plan that identifies the second most appropriate
376 final plan for the minor, if appropriate.

377 (5) The court may order another planned permanent living arrangement for a minor 16
378 years old or older upon entering the following findings:

379 (a) the Division of Child and Family Services has documented intensive, ongoing, and
380 unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a
381 placement for the minor with a guardian, an adoptive parent, or an individual described in
382 Subsection 78A-6-306(6)(e);

383 (b) the Division of Child and Family Services has demonstrated that the division has
384 made efforts to normalize the life of the minor while in the division's custody, in accordance
385 with Sections 62A-4a-210 through 62A-4a-212;

386 (c) the minor prefers another planned permanent living arrangement; and

387 (d) there is a compelling reason why reunification or a placement described in
388 Subsection (5)(a) is not in the minor's best interest.

389 (6) Except as provided in Subsection (7), the court may not extend reunification
390 services beyond 12 months after the day on which the minor was initially removed from the
391 minor's home, in accordance with the provisions of Section 78A-6-312.

392 (7) (a) Subject to Subsection (7)(b), the court may extend reunification services for no
393 more than 90 days if the court finds, beyond a preponderance of the evidence, that:

394 (i) there has been substantial compliance with the child and family plan;

395 (ii) reunification is probable within that 90-day period; and

396 (iii) the extension is in the best interest of the minor.

397 (b) (i) Except as provided in Subsection (7)(c), the court may not extend any
398 reunification services beyond 15 months after the day on which the minor was initially
399 removed from the minor's home.

400 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a
401 basis for the court to extend services for that parent beyond the 12-month period described in
402 Subsection (6).

403 (c) In accordance with Subsection (7)(d), the court may extend reunification services
404 for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

405 (i) the court finds, by clear and convincing evidence, that:

406 (A) the parent has substantially complied with the child and family plan;

407 (B) it is likely that reunification will occur within the additional 90-day period; and

408 (C) the extension is in the best interest of the minor;

409 (ii) the court specifies the facts upon which the findings described in Subsection
410 (7)(c)(i) are based; and

411 (iii) the court specifies the time period in which it is likely that reunification will occur.

412 (d) A court may not extend the time period for reunification services without
413 complying with the requirements of this Subsection (7) before the extension.

414 (e) In determining whether to extend reunification services for a minor, a court shall
415 take into consideration the status of the minor siblings of the minor.

416 (8) The court may, in ~~[its]~~ the court's discretion:

417 (a) enter any additional order that ~~[it]~~ the court determines to be in the best interest of
418 the minor, so long as that order does not conflict with the requirements and provisions of
419 Subsections (4) through (7); or

420 (b) order the division to provide protective supervision or other services to a minor and
421 the minor's family after the division's custody of a minor has been terminated.

422 (9) (a) If the final plan for the minor is to proceed toward termination of parental
423 rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45
424 calendar days after the permanency hearing.

425 (b) If the division opposes the plan to terminate parental rights, the court may not
426 require the division to file a petition for the termination of parental rights, except as required
427 under Subsection 78A-6-316(2).

428 (10) (a) Any party to an action may, at any time, petition the court for an expedited
429 permanency hearing on the basis that continuation of reunification efforts are inconsistent with
430 the permanency needs of the minor.

431 (b) If the court so determines, [it] the court shall order, in accordance with federal law,
432 that:

433 (i) the minor be placed in accordance with the permanency plan; and

434 (ii) whatever steps are necessary to finalize the permanent placement of the minor be
435 completed as quickly as possible.

436 (11) Nothing in this section may be construed to:

437 (a) entitle any parent to reunification services for any specified period of time; or

438 (b) limit a court's ability to terminate reunification services at any time before a
439 permanency hearing; or

440 (c) limit or prohibit [~~the filing of a petition for termination of parental rights by any~~
441 ~~party, or~~] a hearing on termination of parental rights[;] at any time prior to a permanency
442 hearing.

443 (12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is
444 filed prior to the date scheduled for a permanency hearing, the court may consolidate the
445 hearing on termination of parental rights with the permanency hearing.

446 (b) For purposes of Subsection (12)(a), if the court consolidates the hearing on
447 termination of parental rights with the permanency hearing:

448 (i) the court shall first make a finding regarding whether reasonable efforts have been
449 made by the Division of Child and Family Services to finalize the permanency plan for the
450 minor; and

451 (ii) any reunification services shall be terminated in accordance with the time lines
452 described in Section [78A-6-312](#).

453 (c) A decision on a petition for termination of parental rights shall be made within 18
454 months from the day on which the minor is removed from the minor's home.

455 (13) If a court determines that a minor will not be returned to a parent of the minor, the
456 court shall consider appropriate placement options inside and outside of the state.

457 (14) (a) If a minor 14 years of age or older desires an opportunity to address the court
458 or testify regarding permanency or placement, the court shall give the minor's wishes added
459 weight, but may not treat the minor's wishes as the single controlling factor under this section.

460 (b) If the court's decision under this section differs from a minor's express wishes if the
461 minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's

462 placement, the court shall make findings explaining why the court's decision differs from the
463 minor's wishes.

464 Section 5. Section **78A-6-504** is amended to read:

465 **78A-6-504. Petition -- Who may file.**

466 (1) Any interested party, including a foster parent, may file a petition for termination of
467 the parent-child relationship with regard to a child.

468 (2) The attorney general shall file a petition for termination of parental rights under this
469 part on behalf of the division.

470 (3) If a petition has been filed under Section [78A-6-304](#), a petition for termination of
471 parental rights may not be filed, unless the court has:

472 (a) adjudicated or dismissed the petition filed under Section [78A-6-304](#); or

473 (b) terminated reunification services.